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09/893,112	06/27/2001	Philip M. Walker	10005039-1	4872
22879 7590 09/30/2009 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528				
EXAMINER DOAN, DUYN MY				
ART UNIT 2452		PAPER NUMBER		
NOTIFICATION DATE 09/30/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: PHILIP M. WALKER & KEVIN L. COLBURN

Application No. 09/893,112
Technology Center 2400

Mailed: September 29, 2009

Before DEBORAH L. PERRY, *Supervisory Paralegal Specialist, Review Team*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 24, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S ANSWER

There are inconsistencies with the rejection of claims 12-16 between the Final Rejection, mailed October 16, 2008, and Examiner's Answer, mailed June 9, 2009. The grounds of rejection of the claims as provided in

the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8th ed. Rev. 6, Sept 2007) for details.

A comparison of the grounds of rejection between the Final Rejection, mailed October 16, 2008 and the Examiner's Answer, mailed June 9, 2009 is as follows:

Final Rejection

Claims 12-16 as being rejected under 35 U.S.C. 112 first paragraph.

Examiner's Answer

The rejection of claim 12-16 under 35 U.S.C. 112 first paragraph is not present.

Clarification is required.

CONCLUSION

Accordingly,
it is ORDERED that the application is returned to the Examiner:

- 1) VACATE the Examiner's Answer, filed June 9, 2009,
and issue either
 - a) a Substitute Examiner's Answer to correct the deficiencies in the Grounds of Rejection To Be Reviewed On Appeal, and the supporting Arguments section; or
 - b) alternatively, if appropriate, issue a Supplemental Examiner's Answer to correct the deficiencies in Grounds of Rejection To Be Reviewed On Appeal, including any new ground of rejection and supporting Arguments.
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/jsd

Application No. 09/893,112

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